

WaiversFirst Name Last Name Claim Number

W-18-0015

Amount OGC Received Date Assigned To Assigned Date

\$188.02 05/04/2018 Stephanie Rich 05/07/2018

EPA Decision EPA Decision Date Amount Approved Status

APPROVED 12/06/2018 \$188.02 CLOSED

Appeal Comments

No See also, -- same problem.

erroneously placed in FERS RAE rather than FERS FRAE. EPA originally had her that way & corrected when noticed error which resulted debt.

Discovered 6/6/17

Type

Federal Employee Retirement System (FERS)

Attachments

From: Redden, Kenneth

Sent: Thursday, December 06, 2018 7:34 PM

To:

Cc: Chalifoux, Jessica <Chalifoux.Jessica@epa.gov>; Hendrickson, Peter <hendrickson.peter@epa.gov>; Luebbering, Gregory <luebbering.gregory@epa.gov>; Rich, Stephanie <Rich.Stephanie@epa.gov>; Chadha, Zubin <chadha.zubin@epa.gov>

Subject: Waiver Decision - Debt ID: M1715700001

This email is in response to your "Waiver of Indebtedness Application," dated April 24, 2018, wherein you requested approval of a waiver of debt in the amount of \$188.02. For the reasons set forth below, your request for a waiver is granted.

Background

Our records show that this debt arose from incorrect retirement benefit pay deductions you received through a personnel action that placed you in retirement benefit code KR (FERS-RAE), instead of code KF (FERS-FRAE). This action occurred as a result of incorrect Preliminary Employment Information, form SF-75, received by the Cincinnati Human Resources Shared Services Center from

Accordingly, Department of Interior's Interior Business Center notified you of the overpayment and sent you a Bill for Collection on June 6, 2017, in the amount of \$188.02.

In response to the Bill for Collection, you timely submitted a request for waiver on June 20, 2017. In your Waiver of Indebtedness Application, you

state that an administrative error of the [REDACTED] caused the debt in question. You also indicate that this administrative error continued into your employment at EPA when you were transferred from the [REDACTED]. This administrative error in your view occurred through no action on your part. According to you, the overpayment first came to your attention on June 6, 2017, when you were notified by EPA.

#### Analysis

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. In the present case, I find that the erroneous payments were caused by an administrative error. Therefore, the only issue before me is whether the record demonstrates a sufficient basis for me to conclude that the debt caused by the erroneous overpayments of salary should be waived.

Waiver is precluded if the employee was aware or should have been aware that he or she was being overpaid. B-271308 (1996). In this connection, “if an employee has records which, if reviewed, would indicate an overpayment, and the employee fails to review such documents for accuracy or otherwise fails to take corrective action, then the employee is not without fault and waiver will be denied.” B-231018 (1989) (citations omitted). Although “employees are expected to have a general understanding of the federal pay system applicable to them,” B-271308 (1996), it has been consistently held that if an employee’s salary appears reasonable on its face, there is no reason to expect or require an employee to audit the amount shown. B-219122 (1986).

According to our records, you were placed into an incorrect retirement benefit code while you were working for the [REDACTED]. Instead of being placed in code KF (FERS-FRAE) as you should have been, you were placed in code KR (FERS-RAE). This error carried over when you transferred from the [REDACTED] to EPA. As a result, your automatic payroll retirement deduction was less than it should have been and you were overpaid \$188.02 over pay periods 1705 - 1711. The erroneous overpayments were not detected and corrected until May 24, 2017, at which point you incurred the debt at issue (Debt ID: M1715700001).

My review of the record indicates that you reasonably could not have known that you were receiving an overpayment. The SF-50s indicate that the improper retirement code you were placed in when you transferred to the EPA was the same as the code you were in while employed by the [REDACTED]. This error resulted from mistaken Preliminary Employment Information sent by the [REDACTED] to EPA when you transferred. Considering that the data codes created by the U.S. Office of Personnel Management (OPM) to represent different retirement classifications are not readily apparent and well-known, especially to employees not involved in

personnel or human resources matters, it is not reasonable to expect an employee to know what a single-digit difference between codes represents or to suspect that his or her retirement classification is incorrect on that basis alone. Further, it is not reasonable to expect that an employee would know that one-digit of his or her retirement code would be associated with the dollar amount he or she must contribute toward retirement. As such, you did not have a reason to question the correctness of your pay when you received your earnings statements and it is highly unlikely that you were made aware of the coding error until after a point in time when you could have alerted EPA officials in a timely way. Consequently, you were not apprised of the amount of the debt until receipt of the Bill for Collection. Therefore, I find your reliance on the Agency to set the correct salary in this instance was reasonable. Based on the facts as reported, you could not have known that the Agency failed to deduct the proper amount of retirement payments per pay period. The record does not establish that you possessed any specialized knowledge of the federal pay system, especially an understanding of the establishment of retirement codes and the effect it has on an employee's pay. Therefore, I find no reason for you to have questioned the erroneous retirement code and deduction shown on your Earnings and Leave Statements. Moreover, there is no reason to conclude that you knew or should have known that you were being overpaid. I find that your reliance on the Agency to set the correct retirement deduction in this instance was reasonable. Accordingly, all the criteria for waiver of this claim have been met and this request for waiver is approved.